

EXHIBIT 15

CONFIDENTIAL

In accordance with a protective order, the enclosure(s) shall be treated as confidential and shall not be shown to any person other than those persons designated in paragraph 8.2 of the paragraph order.

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF WYOMING

Defendants.)

* SUBJECT TO A PROTECTIVE ORDER *

ZOOM/IN-PERSON DEPOSITION OF ESTHER
GEORGE, a Witness, taken remotely on behalf of
the Plaintiff before Peggy E. Corbett, CSR, CCR,
RDR, pursuant to Notice on the 9th day of
November, 2023, at the offices of the Federal
Reserve Bank of Kansas City, 1 Memorial Drive,
Kansas City, Missouri 64198.

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1 A. It is one and the same. CEO and
2 President is the title of the position.

3 Q. Oh, okay. So in 2009 I thought you told
4 me you became CEO.

5 A. In 2009 I was the Chief Operating
6 Officer --

7 Q. I see.

8 A. -- for the bank.

9 Q. COO?

10 A. Which is the second COO.

11 Q. Did Governor Mark Gordon from Wyoming
12 have any involvement in your nomination or
13 securing those positions for you?

14 A. Mark Gordon was a director of the bank,
15 and would have been on the search committee for
16 the selection.

17 Q. Do you know, did he nominate you or
18 encourage you to get involved in this process in
19 any way?

20 A. No, he did not.

21 Q. Did he support your nomination for CEO
22 and President?

23 A. I would not know that other than I
24 believe that to be the case.

25 Q. Do you consider him a friend?

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1 A. He was a good working associate here and
2 served well as a director of our bank.

3 Q. All right. I take it given your 40-year
4 involvement you have pretty good general
5 understanding of the operations of the Kansas
6 City Federal Reserve Bank, would that be a fair
7 statement?

8 A. I do think I have a broad understanding
9 of this bank's operation.

10 Q. So tell me, you started here at the
11 Kansas City Fed approximately two years after the
12 Monetary Control Act of 1980 was passed by
13 Congress; is that your understanding?

14 A. I joined in 1982, and the Monetary
15 Control Act was in 1980, yes.

16 Q. Tell me what your general understanding
17 is as to what the Monetary Control Act did in
18 regard to changes with the Federal Reserve Bank
19 system.

20 A. My understanding of the changes had to
21 do with levelling the playing field and really
22 setting in motion pricing standards for the
23 Reserve Banks, in terms of how they deliver
24 services, making them not exclusive to member
25 banks, but opening them up for non-member banks,

1 as well, on the same terms.

2 Q. When you got into -- did you actually
3 look at the specific language of the Monetary
4 Control Act and talk with peers when you started
5 to see what that actually meant and what that
6 obligations were for the Kansas City Fed?

7 MR. MICHAELSON: Objection, form.

8 A. In 1982 I would have been focused on
9 training to become a bank examiner, and this
10 probably was not in front of mind.

11 Q. (BY MR. ORTIZ) Fair enough. Have you
12 ever authored any papers or given any lectures on
13 the Monetary Control Act, and what it means in
14 regard to State-chartered banks' ability to
15 access Federal Reserve services?

16 MR. MICHAELSON: Objection, form.

17 A. I do not recall doing anything specific
18 to that, although I -- it would not be unusual to
19 reference relevant legislation in some kind of a
20 speech or discussion.

21 Q. (BY MR. ORTIZ) To your knowledge does
22 the Federal Reserve Bank of Kansas City have
23 annual reports?

24 A. The bank does have annual reports.

25 Q. Are those housed here on-site, if you

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1 know?

2 A. The Kansas City Fed would make those
3 annual reports available to the public.

4 Q. They do or they can?

5 A. We do. We post them on our website.

6 Q. Going how far back?

7 A. As long as I can remember.

8 Q. For instance, I am going to hand you
9 what's already in evidence as Exhibit 2 in this
10 case. This is an example of an Annual Report
11 from the Federal Reserve Bank of Cleveland.

12 A. Uh-huh.

13 Q. And if you turn to what is Page 2 on
14 this document, Page 2 of Exhibit 2, there's a
15 paragraph that starts, it says, "The legislation
16 has fundamentally altered the relationship
17 between Federal Reserve Banks and depository
18 institutions." Do you see that?

19 A. No. I'm sorry, what paragraph are you
20 looking at?

21 Q. Sure, it starts --

22 A. I see the second paragraph.

23 Q. Yes, the second paragraph starts with
24 the words, "The legislation..."

25 A. Yes.

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1 Q. Do you know, is there a similar Annual
2 Report for the Kansas City Federal Reserve that
3 references what the changes in the Monetary
4 Control Act really mean?

5 MR. MICHAELSON: Objection, form.

6 A. I would not know here what the 1980
7 report of the Kansas City Fed would have said.
8 There was not a standard form. Each bank would
9 have developed their presentation based on their
10 own judgments.

11 Q. (BY MR. ORTIZ) Earlier when you told me
12 that your understanding of the Monetary Control
13 Act was that it leveled the playing field that
14 really meant that State-chartered banks were
15 entitled to access Federal services, basically
16 access to the Federal Reserve system, correct?

17 MR. MICHAELSON: Objection, form.

18 A. My understanding of the Monetary Control
19 Act is it no longer made a distinction between
20 those that were members of the Federal Reserve
21 and those that were not, in terms of access to
22 services and their pricing.

23 Q. (BY MR. ORTIZ) So when you are not a
24 member of a member bank, you're typically a
25 State-chartered bank; is that correct? That's a

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1 non-member bank?

2 A. A State-chartered bank can be a member
3 bank, yeah.

4 Q. Sure, but most non-member banks are
5 State-chartered banks, true?

6 A. That would be true.

7 Q. And you're saying what the Monetary
8 Control Act said, you can be a State-chartered
9 non-member bank and you have to be given access
10 to Federal services; is that correct?

11 MR. MICHAELSON: Objection, form,
12 misstates prior testimony.

13 Q. (BY MR. ORTIZ) Is that your
14 understanding?

15 A. It eliminated the distinction between
16 member banks and non-member banks.

17 Q. And that's what you meant when you said
18 it levels the playing field?

19 A. That's what I meant.

20 Q. So back when you started in '82, and
21 maybe for the first 15 years or more there was no
22 such thing or no term that you called the master
23 account, was there?

24 A. I'm not sure.

25 Q. Can we agree, say at least starting at

1 A. That is correct, with Federal
2 supervision in both cases.

3 Q. So let me make sure I am understanding
4 what you're telling me. You're telling me that
5 even if it's a State-chartered non-member bank,
6 you have some Federal supervisory authority over
7 that?

8 A. A State-chartered institution must
9 select a Federal supervisor, and it is either the
10 Federal Reserve, or it is the Federal Deposit
11 Insurance Corporation.

12 Q. So early on Custodia made it very clear
13 that they would let you supervise them, agreed?

14 A. At the time they asked for the master
15 account, they had not expressed membership
16 interest, in being supervised by the Federal
17 Reserve.

18 Q. Well, I think we're talking two
19 different things.

20 A. Okay.

21 Q. You don't have to be a member bank of
22 the Fed, do you, if you're State-chartered? You
23 don't have to be a member bank, correct?

24 A. That is correct.

25 Q. All right. Now, obviously, you have

1 supervisory authority over member banks.

2 A. Correct.

3 Q. I thought you just told me you also have
4 supervisory authority over a State-chartered
5 non-member bank.

6 MR. MICHAELSON: Object.

7 A. We do not.

8 Q. (BY MR. ORTIZ) You do not. But you're
9 saying some Federal authority, other than the
10 State of Wyoming as the chartering authority, has
11 to supervise that?

12 A. Our dual banking system is based on a
13 national charter issued by the comptroller of the
14 currency, or the 50 states can issue their own
15 charter, in which case they apply to the Federal
16 Reserve or the FDIC for their Federal
17 supervision.

18 Q. Okay.

19 A. So all State-chartered institutions come
20 with Federal supervision in the current legal and
21 regulatory framework.

22 Q. So is it your position here today that
23 Custodia never acknowledged that they would be
24 supervised by you -- by the Kansas City Fed or
25 the FDIC?

1 MR. MICHAELSON: Objection, form.

2 A. The nature of the charter allowed the
3 State of Wyoming to be the sole supervisor of
4 this institution.

5 Q. (BY MR. ORTIZ) Okay. Did you ever make
6 an offer or a request to Custodia that they just
7 willingly agree to let the Kansas City Fed also
8 have a dual supervisory role?

9 A. I did not suggest that at any time.

10 Q. Why not?

11 A. That would have been inconsistent with
12 the authorities --

13 Q. Why?

14 A. -- that existed.

15 Q. Why?

16 A. Because the legislation creating the
17 SPDI charter did not refer to it as a bank that
18 would have Federal supervision. It was
19 designated as State-only supervised.

20 Q. Was that a policy question that you
21 needed decided by the Board of Governors, whether
22 you could even offer that?

23 A. There was a threshold question to me
24 about whether this charter was eligible for
25 access to an account at the Federal Reserve.

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1 MR. MICHAELSON: Object to form and
2 foundation.

3 A. It would be typical to say this guidance
4 supersedes previous guidance.

5 Q. (BY MR. ORTIZ) Let me talk to
6 co-counsel for a minute if we could, Counsel.
7 Let's take a quick break?

8 MR. MICHAELSON: Okay.

9 MR. ORTIZ: We're winding down
10 pretty well.

11 (Brief recess taken.)

12 Q. (BY MR. ORTIZ) So did you have
13 information shared with you what on the same day
14 you were going to be announcing the denial of
15 Custodia's master account application, that the
16 White House would be issuing a press release
17 basically on the dangers of crypto-currency?

18 A. I was not aware of the White House
19 announcement.

20 Q. Were you surprised then when it all kind
21 of came out within minutes of each other, your
22 decision, the membership denial, and then the
23 White House issuing a statement?

24 A. I was mostly focused on the Board of
25 Governors' decision-making release, and how it

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1 coincided with ours.

2 Q. So did you find out that same day that
3 the White House had issued this press release on
4 crypto?

5 A. I saw it in the news.

6 Q. But you had no heads up that was coming
7 from anyone?

8 A. I did not. It wasn't a factor in my
9 decision.

10 Q. Is there another reason that you did not
11 think Custodia was entitled to a master account
12 that you and I have not talked about today?

13 MR. MICHAELSON: Objection, form.

14 A. I believe we've covered all the reasons.

15 MR. ORTIZ: Okay. I appreciate
16 your patience with me today. That's all the
17 questions I have, although I think he's going to
18 have a bunch more for you, and then I get to come
19 back and ask more questions.

20 THE WITNESS: Okay.

21 EXAMINATION

22 BY MR. MICHAELSON:

23 Q. All right. Thank you. First, I'd just
24 like to designate the transcript confidential.

25 Okay, so Ms. George did there come a

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1 time when Custodia's request for a master account
2 was denied?

3 A. Yes.

4 Q. Okay, and who made the decision to deny
5 that request?

6 A. So this was a decision in consultation
7 with my team, but given its nature I signed the
8 letter on behalf of the bank.

9 Q. So would you say it was your decision?

10 A. Yes.

11 Q. And when did you arrive at that
12 decision?

13 A. So I think the concerns that we had
14 ultimately when we got to the Fall of 2022 had
15 led me to think this is the direction that we
16 were heading and this was the appropriate
17 decision, given all the information that we had
18 from that point.

19 Q. Do you recall whether a pre-membership
20 exam was conducted by FRBKC staff in the Fall of
21 '22?

22 A. Yes. I was aware that our team was
23 conducting that review.

24 Q. And did the results of that review
25 factor in at all into your decision to deny

1 Custodia's master account request?

2 A. Yes. The assessment that that team saw
3 with their firsthand look at policies, the
4 compliance programs and other aspects of the
5 risk, did inform our decision.

6 Q. And what were the primary drivers in
7 your decision to deny Custodia's master account
8 request?

9 A. So our decision is outlined in the memo
10 that was attached to the letter. It had to do
11 with the risk involved, the risk to the Reserve
12 Bank, the risk to the financial system, and the
13 nature of the volatility, the assets, that there
14 were broad public policy issues that would have
15 implications potentially.

16 We had seen inadequacies in the policies
17 and procedures, the operational components, had
18 raised questions about the management's ability
19 to establish a risk management program for this
20 institution, and also had raised questions about
21 ultimately in the event of a failure, how the
22 resolution of this institution would be handled,
23 which is a very relevant factor in considering
24 stability and implications of a failure.

25 Q. Can you explain what you mean by that

1 last point, the risk presented by potential
2 failure?

3 A. So in our traditional banking system,
4 the FDIC for insured institutions is the
5 resolution authority, and there are very long
6 tested processes for the failure of an
7 institution and how it's resolved.

8 This would have been something new for
9 the State of Wyoming, in terms of being able to
10 handle a resolution like that, and one, of
11 course, which could not have been tested at that
12 point.

13 Q. I see, and did you have a view at that
14 time as to the risks that Custodia might fail?

15 A. I think we had seen such tremendous
16 volatility in the broader industry around this,
17 and we had seen bankruptcies and failures, and so
18 there was a real question about how such
19 volatility would be managed here, what liquidity
20 risk and other issues could arise that would
21 threaten the viability of this institution.

22 Q. Earlier when you described the primary
23 drivers of the decision to deny, you mentioned at
24 the outset the risks to the Reserve Bank. What
25 do you mean by that?